IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 5374 of 1999

Between:

1 SK.Beebi John, W/o. Khasim Saheb,
R/o. D.No.16-221, Pedanandipadu Road, Chilakaluripeta P.O.
2 Jallipalli Seshagiri Rao, S/o. Nagiah,
R/o. D.No.20-247, Chirala Road, Chilakaluripeta P.O.
3 Sk.Hajra Babi, W/o. Sulaiman,
R/o. D.No.20-244, Chirala Road, Chilakaluripeta P.O.
4 SK. Ahmad, S/o. Galib Saheb,
R/o. D.No.20-241, Chirala Road, Chilakaluripeta.
5 Kothuri Ramalingaiah, S/o. Venkata Subbaiah,
R/o. D.No.20-242, Chirala Road, Chilakaluripeta.
6 Dogiparthi Sankara Sivanandan, S/o. Rangaiah,
R/o. D.No.20-243, Chirala Road, Chilakaluripeta.

..... PETITIONERS

AND

1 The Commissioner, Chilakaluripeta Municipality,

Chilakaluripeta P.O., Guntur District.
2 The Mandal Revenue Officer,
Chilakaluripeta P.O., Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction in the nature

of Mandamus declaring the notice issued by the 1st Respondent under Section 192 of Andhra Pradesh Municipalities Act dated: 8-2-1999 served on the petitioner on 10.3.1999 as being illegal, unjust, without jurisdiction, arbitrary and violative of principles of natural justice as per judgments in W.P.No.25784/96 and W.P.No.25901/96, dt.10.11.1998 and 16.11.1998.

Counsel for Petitioners: MR. E.V.BHAGIRATHA RAO

Counsel for Respondent No.1: MR. S.NAGESWARA REDDY (STANDING COUNSEL FOR MUNITIPALITIES)

Counsel for Respondent No.2: GOVERNMENT PLEADER FOR MUNCIPAL ADMN. & URBAN DEV.

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the notice dated 08-02-1999 issued by the first respondent under Section 192 of A.P. Municipalities Act, to the petitioners wrongly showing street Survey No.118 part, instead of Survey No.56/1 as being illegal, unjust, arbitrary and without jurisdiction as the said house sites admittedly belong to the Revenue Department.

2. The case of the petitioners is that the first respondent-Commissioner, Chilakaluripeta Municipality, Guntur District, issued notice dated 08-02-1999 under Section 192 of Andhra Pradesh Municipalities Act (for short, 'the Act') to them, which reads as under:

> " It is learnt that you have occupied site in Street Survey No.118 of old Chirala road and constructed A.C. sheet shed same within the limits of Municipality of Chilakaluripeta. The said occupation is against the provisions of Act and to ease the traffic problem by expanding the road. You are directed to remove the construction and inform within 3 days to this office of your compliance. If the said occupation is not removed, the department will remove the same and collect necessary charges."

3. It is contended that the petitioners, six in number, are in occupation of the land situated in Survey No.56/1 of Chilakaluripeta town and constructed houses. Thereafter, house site pattas were granted by the Tahsildar, Narasaraopeta, Guntur District, to the extent of the land occupied by the petitioners in Survey No.56/1. Thereafter, assignment of land was regularised in favour of the petitioners by the Revenue Divisional Officer, Narasaraopeta, on payment of market value and they were given Door numbers by the Municipality and they were paying house taxes. But, it is alleged that the first respondent-Commissioner, Chilakaluripeta Municipality, has given Street Survey number as 118 part instead of 56/1 in the notice dated 08-02-1999. Therefore, this writ petition is filed by the petitioners seeking a declaration that the notice dated 08-02-1999 issued by the first respondent-Commissioner, Chilakaluripeta Municipality, as illegal, unjust, without jurisdiction, arbitrary and violative of principles of natural justice.

4. It is stated in the counter affidavits by the respondents that town planning staff of Chilakaluripeta Municipality along with the Mandal Surveyor and Deputy Inspector of Survey from the office of the Revenue Divisional Officer, Narasaraopeta, Guntur District, have ascertained the width of the road and road margins, and found that the petitioners' occupation is on the road margins as per the street survey record. Therefore, they issued the notice dated 08-02-1999 to the petitioners directing them to remove the constructions within three days as the same are against the provisions of the Act and to ease the traffic problem by expanding the road, else the Department would remove the same and collect necessary charges from them.

5. Considering the facts and circumstances of the case, the petitioners are directed to approach the first respondent-Commissioner, Chilakaluripeta Municipality, Guntur District and submit their explanation with necessary documents to establish their title to the property and show that the part of the land on which they have constructed their buildings is not a road, who in turn may pass appropriate orders after hearing the petitioners. Till such time, the

respondents are directed to give effect to the interim order dated 16-03-1999 made in W.P.M.P.No.6706 of 1999.

6. Accordingly, the writ petition is disposed of. No order as to costs.

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ELIPE DHARMA RAO, J

19th July, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Chilakaluripeta Municipality,

Chilakaluripeta P.O., Guntur District.

2. The Mandal Revenue Officer, Chilakaluripeta P.O.,

Guntur District.

3. Two CCs to the Government Pleader for Municipal Administration

& Urban Development, High Court Buildings, Hyderabad (O.U.T).

4. Two CD copies.